IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

WP(C).No. 17733 of 2007(J)

PETITIONER:

INDIAN OIL CORPORATION LTD.,
A GOVERNMENT OF INDIA UNDERTAKING, HAVING ITS KERALA STATE OFFICE AT PANAMPILLY AVENUE, PANAMPILLY NAGAR P.O., KOCHI-682036, REP. BY ITS CHIEF LPG MANAGER, MR.S.CHANDRAN.

BY ADV. SRI.A.M.SHAFFIQUE
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
SRI.ANIL D. NAIR

RESPONDENT:

CORPORATION OF COCHIN,
CORPORATION OFFICE, ERNAKULAM,
REP. BY SECRETARY.

BY STANDING COUNSEL SRI.M.K.CHANDRAMOHAN DAS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.P.(C). NO. 17733 OF 2007 J

Dated this the 13th June, 2007

JUDGMENT

H.L.DATTU, C.J.

Sri.M.K.Chandramohan Das, learned counsel takes notice for the respondent Corporation. He is permitted to file his memo of appearance within four days from today.

2. Petitioner in this writ petition filed under Article 226 of the Constitution of India calls in question the legality or otherwise of the notice (Ext.P11), issued by the authorities of the respondent Corporation, inter alia directing it to demolish the so called unauthorized construction put up by the petitioner on the side of Thevara-Perandoor Canal.

3. Apart from others, the primary grievance of the petitioner before us in this writ petition is that the respondent, without even giving sufficient time to the petitioner to file it's objection to the said notice, has directed it to demolish the unauthorized construction. Therefore, it is stated that the action of the respondent is arbitrary and in violation of the principles of natural justice.

4. First and foremost, the respondent before us is facing a contempt petition. In that, we have already directed the respondent to remove the encroachers, if any, of Thevara-Perandoor Canal. In order to comply with the orders and directions issued by us, the Secretary of the Corporation has given to the petitioner only 24 hours' time to demolish the unauthorized construction said to have been put up on the side of Thevara-Perandoor Canal. We cannot find fault with the respondent in their action.

5. However, in the interest of justice, in our opinion, if we direct the petitioner to treat Ext.P11 notice as a show cause notice and file it's objection, if any, and further direct the respondent to consider that objection and pass appropriate orders in accordance with law, no prejudice will be caused to any one of the parties. Therefore, the following:

O R D E R

1) The writ petition is disposed of.

2) A direction is issued to the petitioner to treat Ext.P11 as a show cause notice and file it's objection, if any, within three days from today.

3) If such objection is filed within the time framed by this Court, the respondent Corporation is directed to consider the same and pass appropriate orders in accordance with law, after affording an opportunity of

being heard to the petitioner or it's learned counsel, within three days thereafter.

All the other contentions raised by both the parties are left open.

Ordered accordingly.

Hand over certified copy of this judgment to both the parties today itself.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/